

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

**MAC East, LLC,
an Alabama Limited Liability
Corporation,**

PLAINTIFF

vs.

CASE NO. 2:05-cv-1038-MEF

**SHONEY'S LLC.,
a Tennessee corporation,**

DEFENDANT

**JOINT STIPULATION OF FACTS PERTAINING TO JURISDICTION
AND MOTION TO CONTINUE STATUS CONFERENCE**

Come now the parties hereto and in light of the Order of Limited Remand dated March 12, 2008, hereby stipulate to the following facts and move to continue the status conference currently set for June 11, 2008 [Doc 53].

JOINT STIPULATIONS OF FACT

A. As of the date of the filing of the notice of removal in this case [Doc. 1], i.e. October 28, 2005, MAC East, LLC had six members whose names and citizenship were as follows:

1. Joel D. McClinton, resident and citizen of Montgomery, Alabama.
2. Denise W. McClinton, resident and citizen of Montgomery, Alabama.
3. Christopher Pelzer McClinton, resident and citizen of Washington,

D.C.

4. Stephanie McClinton, resident and citizen of Montgomery, Alabama.
5. Joel D. McClinton, Jr., resident and citizen of Montgomery, Alabama.
6. Denise W. McClinton, as custodian for minor Britton McClinton, a resident and citizen of Montgomery, Alabama.

B. As of the date of the filing of the notice of removal in this case [Doc. 1], *i.e.* October 28, 2005, Shoney's, LLC, formerly known as Shoney's, Inc., was a limited liability company organized and existing under the laws of the State of Tennessee with its principal place of business and offices in Nashville, Tennessee. The sole member of Shoney's, LLC on October 28, 2005 was Shoney's Holding Company, a Delaware corporation. As of the date of the filing of the notice of removal in this case [Doc. 1], *i.e.* October 28, 2005, no member of Shoney's, LLC was a resident of Alabama or maintained a principal place of business or offices in Alabama.

MOTION FOR CONTINUANCE

The parties jointly request the Court to reschedule the hearing set for June 11, 2008, on the following grounds:

1. The parties are desirous of resolving the limited remand issues expeditiously and at low cost to the parties.
2. Counsel for Shoney's has a conflict with the current date of June 11, 2008.

3. Counsel for MAC East, LLC has no objection to continuing the current hearing date.

4. The parties are hopeful that upon making the above stipulations no further proceedings will be required and that the Court can determine whether diversity jurisdiction exists.

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